

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**SHANLENN F. BURGESS and
STEPHANIE A. MONK,**

Defendant.

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CASE NO. 8:05CR229

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 33) issued by Magistrate Judge Thomas D. Thalken recommending denial of the motion to suppress filed by the Defendant, Shanlenna F. Burgess (Filing No. 22) and joined in by the Defendant, Stephanie A. Monk (Filing Nos. 24, 25). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendants seek an order suppressing evidence seized on May 21, 2005, pursuant to a warrantless luggage search that occurred at the Omaha Greyhound bus terminal. Two bags were searched, a green bag and a black bag. Judge Thalken determined: the officers' observation of the Defendants smoking marijuana justified the temporary investigatory detention of the Defendants; the three-minute detention was not unreasonably long; Monk voluntarily consented to the search of the green bag by opening the bag, stepping away from it and gesturing to the officers; and because the Defendants abandoned the black bag they lacked a reasonable expectation of privacy in that bag and have no standing to contest the search of the black bag.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the brief filed by Burgess (Filing No. 23) and the transcript (Filing No. 32). The Court has also viewed the evidence. (Filing No. 31) Because Judge Thalken fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 33) is adopted in its entirety; and
2. The motion to suppress filed by the Defendant, Shanlenna F. Burgess (Filing No. 22), and joined in by the Defendant, Stephanie A. Monk (Filing Nos. 24, 25) is denied.

DATED this 14th day of November, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge